

**GARVEY TIRELLI & CUSHNER LTD.**

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February 3, 2015

Brain McCaffrey, Esq.  
Brain McCaffrey, Attorney at Law, P.C.  
88-18 Sutphin Blvd  
Jamaica, NY 11435  
*Via First Class Certified US Mail RRR# 7007 0220 0002 9722 4688*

RE: DeConne v Marx AP Case Number 13-0213(rdd)

Dear Mr. McCaffrey:

I am attaching a copy of your email received this morning and my response. To be clear, I have no idea what you are talking about regarding the enlargement of time to file an appellate brief. As set forth below, you missed deadlines and made no effort to contact me prior to today's email.

To recap, you filed a Notice of Appeal with the US Bankruptcy Court on December 25, 2015. Under FRBP 8009(1)(A) and (B), as effective December 1, 2014, if you were to proceed with an appeal you needed to file and serve both a statement of issues and designation of record with the US Bankruptcy Court as well as serve the appellees with the same within 14 days of your notice of appeal. Because you did not serve or file either of these items in accordance to the rules and because neither my clients nor I have had any contact from you whatsoever regarding an appeal, and certainly have not been served with anything, we have been proceeding as if there is no appeal pending and are currently preparing for the confirmation of the chapter 13 plan.

Feel free to call me if you require further discussion. I remain

Very truly yours,

  
Linda Tirelli, Esq.

cc:

Mr. & Mrs. DeConne

Mr. Craig Marx

Jeffrey Sapir, Esq.

Greg Zipes, Esq.

Hon. Judge Robert D. Drain

Paul McGeough, Esq.

Edward McCabe, Esq.

Joseph Lemkin, Esq.

**Linda Tirelli**

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**From:** Linda Tirelli  
**Sent:** Tuesday, February 03, 2015 10:01 AM  
**To:** 'Brian McCaffrey'  
**Cc:** 'judge\_drain@nysb.uscourts.gov'; jody.kava@SapirCh13Tr.com  
**Subject:** RE: Appeal -Deconne -Marx 15-cv-00175

Mr. McCaffrey,

Please be advised that this firm continues to represent Mr. and Mrs. DeConne in all pending matters concerning their bankruptcy case, including any would-be appeal.

Respectfully, I am including the Court and the Chapter 13 trustee on this email as it seems to me that in light of the request you've made below, both have an interest in moving this case towards completion need to be kept abreast of the situation. I am not clear that you are aware of the fact that at this point you failed/neglected/ refused or otherwise missed the deadline by which to file either a statement of issues or the record on appeal. The Debtors do not agree to bypass either of these required steps in the appellate procedure and frankly, I do not see how I have any ability to consent to bypass the same. Even if the two steps could be bypassed, the Debtors do not agree to enlarge a time for filing a brief. The Debtors are elderly have been through a lot of stress over this situation for many years and need closure.

I do not make the rules and do not know that my consent would even hold water as appeals are handled by the District Court which, as I understand it, adhere to very stringent rules including deadlines.

Sincerely yours,

Linda M. Tirelli, Esq.

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*Serving Individuals and Small Businesses in New York,*

*New Jersey and Connecticut*

**PLEASE NOTE MY NEW EMAIL ADDRESS : LINDATIRELLI@THEGTCFIRM.COM**

**From:** Brian McCaffrey [mailto:mccaffrey.b@gmail.com]

**Sent:** Tuesday, February 03, 2015 9:15 AM

**To:** Linda Tirelli

**Subject:** Fwd: Appeal -Deconne -Marx 15-cv-00175

Ms. Tirelli;

I should have asked this in the first email ... if you are counsel to the Deconnes, will you consent to an enlargement of Appellant's time to file his brief to 2/22/15.

Please advise as I have to upload a letter to Judge Briccetti advising whether there is consent.

Thank you.

----- Forwarded message -----

From: **Brian McCaffrey** <[mccaffrey.b@gmail.com](mailto:mccaffrey.b@gmail.com)>

Date: Tue, Feb 3, 2015 at 8:58 AM

Subject: Appeal -Deconne -Marx 15-cv-00175

To: Linda Tirelli <[lindatirelli@thegtcfirm.com](mailto:lindatirelli@thegtcfirm.com)>, "[info@mynylawfirm.com](mailto:info@mynylawfirm.com)" <[info@mynylawfirm.com](mailto:info@mynylawfirm.com)>

Ms. Tirelli:

Please advise if you are acting as counsel to the appellees, Ronald and Karin Deconne in the above referenced matter.

Thank you,  
Brian

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